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SUPREME COURT, U.S.

NO. 82-982

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1982

TRIBUNE PUBLISHING COMPANY d/b/a  
COLUMBIA DAILY TRIBUNE, and  
NATE BROWN,  
Petitioners,

vs.

SANDRA K. HYDE and CITY OF  
COLUMBIA, MISSOURI,  
Respondents

Brief of Respondent Sandra K. Hyde  
In Opposition to Petition For Certiorari

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1103 East Broadway  
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Columbia, Missouri 65205  
Attorney for Respondent,  
Sandra K. Hyde

RESPONDENTS ELABORATION  
TO QUESTIONS PRESENTED  
BY PETITIONERS

Can a newspaper be sued for fault in negligence for actual damages by  
a private person alledging a breach of duty causing foreseeable results.

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TABLE OF AUTHORITIES

- Gertz v. Robert Welch, Inc., 418 U.S., 323, (1974)
- Landmark Communications, Inc. v. Virginia, 435 U.S. 829 (1978)
- New York Times Co. v. Sullivan, 376 U.S. 254, (1964)
- Smith v. Daily Mail Publishing Co., 443 U.S. 97, (1979)
- United States Constitution Amendment I & XIV.

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SANDRA K. HYDE and CITY OF  
COLUMBIA, MISSOURI,  
Respondents.

BRIEF OF RESPONDENT, SANDRA K. HYDE, IN OPPOSITION  
TO PETITION FOR CERTIORARI

Respondent, Sandra K. Hyde, requests the Court deny the petition for a writ of certiorari seeking review of the decision of the Missouri Court of Appeals of June 15, 1982 and the Order of the Supreme Court of Missouri of September 13, 1982. The decision involved appears in the appendix to the petition at pages A-3 to A-31.

SUPPLEMENT TO STATEMENT OF THE CASE

That right after the attempted abduction by the unknown male assailant on August 20, 1980, at about 12:15 a.m., Sandra K. Hyde reported the offense to the police department of the City of Columbia, Missouri.

At this time there was a written policy of Respondent, City of Columbia, that no police offense reports of major felonies should be given to the news media and a victim's identity should not be released if the victim could identify the assailant or if a sex crime victim. The police offense report designated the offense as a kidnapping and stated the victim

could identify the assailant.

Shortly after the offense, the police department of the Respondent, City of Columbia, gave the police offense report made by Sandra K. Hyde to the Petitioners, Nate Brown and The Tribune Publishing Company, who requested it. At this time the newspaper had a policy not to publish the name and address of female victims of an attempted or actual sexual assault.

The Petitioners placed Respondent, Sandra K. Hyde's name and address and described the unknown assailant and the incident in the story which appeared in the afternoon's edition of the newspaper of August 20, 1980.

The assailant appeared at Respondent's, Sandra K. Hyde, home on the evening of August 20, 1980, and she was terrorized at her home and on her job on eight (8) different occasions.

Respondent Sandra K. Hyde filed her petition in the Circuit Court of Boone County, Missouri, on September 30, 1980, and to this date has been involved in the appellate process. The Circuit Court of Boone County, Missouri has on January 11, 1983 notified the parties that a trial date on this case is set for March 9, 1983.

#### REASONS WHY THE WRIT SHOULD BE DENIED

Respondent reads Petitioner's argument as basically telling this Court (page 18) that this decision allowing a negligence action against a newspaper will emasculate the newspapers. Are they stating that they have no responsibility for their possible torts; that they are above the law? I cannot accept this. The pace of modern life makes individuals, business



and government responsible for its torts. Why should a newspaper be totally immune. It should occupy a protected place to insure its ability to publish but it should not claim society is better off by the newspaper acting with total license, paying no attention to the rights of others or to its own policies established to protect persons from foreseeable injury.

Neither appellant's suit nor the Missouri Court's opinion has revoked the First Amendment or has shackled the daily operation of the newspaper since the judgment was rendered on August 3, 1982. The decision only recognizes that crime victims have some rights when they do their public duty and report criminal offenses to the police and the police and news media have an obligation to perform their important functions without carelessly ignoring their duties to the victim and causing foreseeable serious injury thereto.

The cause of action the victim asserts against the news medium is for negligence and not on any theory of liability without fault. The events the petition filed by Ms. Hyde describe are of a private person becoming an unwilling victim of a crime--not of one who has injected her person in public controversy. The damages she pleads for are for actual loss. In sum, the petition is valid within the culminated constitutional balance struck by Gertz, which allows a private redress against a newspaper for a negligent publication of information on a theory of fault free from the proof restraints of New York Times.

Petitioners make an issue that Ms. Hyde's petition cannot proceed because they got the information upon request from the police department (page 14). What they don't consider is that both the giving and publi-

cation was a violation of policy of both the police department and the newspaper and this case different from the factual situations in Landmark Communications Inc. 435 U.S. 829 and Smith vs. Daily Mail Publishing Co. 443 U.S. 97. The same reasoning applies to Petitioner's argument that, the Missouri Court has chosen to be the editor by its decision (pages 15-16) as both police and newspaper had previously decided their policy would be not to give or print the information (name and address of the victim) objected to by Ms. Hyde.

#### CONCLUSION

The First Amendment to the Constitution is not violated by the Missouri Court's decision. Newspapers are protected in their rights to publish but the First Amendment does not give newspapers total license to commit torts and damages upon private citizens. Newspapers can and should live up to standards they themselves set up as reasonable and should they violate same, negligence is a legitimate action, provided the Plaintiff can prove her case. That is all she has tried to do since September, 1980. We respectfully request this Court to deny the petition for a writ of certiorari and allow Ms. Hyde to attempt to prove her allegations of negligence.

Respectfully submitted,



FRED DANNOV  
1103 East Broadway, P. O. Box 7164  
Columbia, Missouri 65205

Attorney for Respondent,  
Sandra K. Hyde



January 21, 1983

**CERTIFICATE OF SERVICE**

Fred Dannov certifies that a copy of this response was on the 21<sup>st</sup> day of January, 1983, mailed, postage prepaid to:

Sam L. Colville, Shook Hardy and Bacon, 1101 Walnut Street, 20th Floor,  
Kansas City, Missouri 64106;

Terence C. Porter, Ten North Garth Avenue, Columbia, Missouri 65205;

Scott Whiteside, 1729 Grand Avenue, Kansas City, Missouri 64108;

Lincoln J. Knauer, Jr., Farrington Curtis and Knauer Hart and Garrison,  
750 West Jefferson, Springfield, Missouri 65108;

Hamp Ford, 609 East Walnut Street, Columbia, Missouri 65201.

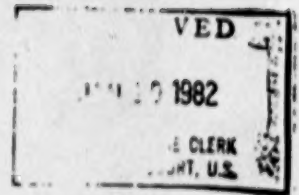
IN THE SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM 1982

TRIBUNE PUBLISHING COMPANY  
d/b/a COLUMBIA DAILY TRIBUNE and  
NATE BROWN,  
Petitioners

vs.

SANDRA K. HYDE and  
CITY OF COLUMBIA, MISSOURI,  
Respondents.

No. 82-982



MOTION AND AFFIDAVIT FOR LEAVE  
TO RESPOND IN FORMA PAUPERIS


COMES NOW Respondent Sandra K. Hyde and states:

1. Petitioners having filed its petition for a writ of certiorari from proceeding to trial on her cause of action filed October 1980 against Petitioner and City of Columbia in the Circuit Court of Boone County, Missouri, thereby causes this Respondent to request this Court for its order allowing Respondent to respond in forma pauperis.

2. This motion is based upon the fact that she is an indigent and has been adjudged the same and allowed to sue in forma pauperis in the Circuit Court of Boone County, Missouri and the Missouri Court of Appeals for the Western District of Missouri.

3. That a copy of the Circuit Court of Boone County order of January 6, 1981 allowing Sandra K. Hyde to appeal as a poor person is attached hereto and made a part hereof.

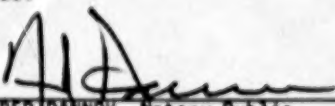
WHEREFORE Respondent, Sandra K. Hyde, requests this Court's Order allowing her to respond without printing as a pauper to the request for Certiorari and should this Court grant Certiorari to allow Respondent, Sandra K. Hyde, to proceed without cost to contest Petitioner's appeal.

3 /  
  
SANDRA K. HYDE, Respondent

STATE OF MISSOURI    )  
                          ) ss.  
COUNTY OF BOONE    )

The above, Sandra K. Hyde, having appeared before me after being duly sworn on this 7<sup>th</sup> day of January, 1983, states the above motion is true and correct.

My term expires November 24, 1986.

  
FRED DANNOV, Notary Public

NOTICE OF ENTRY OF ORDER OR JUDGMENT (TO BE GIVEN BY CLERK TO ALL  
PARTIES NOT IN DEFAULT WHO ARE NOT PRESENT IN OPEN COURT  
WHEN ORDER OR JUDGMENT IS ENTERED)

(Supreme Court Rule 74.78)

STATE OF MISSOURI,  
COUNTY OF BOONE

} ss

IN THE CIRCUIT COURT WITHIN AND FOR THE COUNTY OF BOONE, STATE OF MISSOURI

SANDRA K. HYDE

Plaintiff

vs.

CITY OF COLUMBIA, MISSOURI, et al

Defendant

No. CV180-16Q1CC

TO Fred Dannov

, ATTORNEY FOR Plaintiff

YOU ARE HEREBY NOTIFIED that on the 6 day of January, 19 81, the court  
duly entered the following:

An order to the following effect

"Plaintiff is given leave to prosecute appeal as poor person." Judge Roper

MAXINE OWENS

Clerk of the said Court

by

*Rian P. [Signature]*

Deputy

Said notice was mailed to the above address on the 7 day of January

, 19 81.